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## LOK SABHA

The following Bills were introduced in Lok Sabha on the 16th August, 1963:—

\*BILL No. 33 OF 1963

*A Bill to amend the Customs Act, 1962 and further to amend the Central Excises and Salt Act, 1944*

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Customs and Central Excises Short title and commencement. (Amendment) Act, 1963.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 12 of the Customs Act, 1962, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 12 of Act 52 of 1962.

10 “(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.”

3. In section 3 of the Central Excises and Salt Act, 1944, for sub-section (1A), the following sub-section shall be substituted, namely:— Amendment of section 3 of Act 1 of 1944.

15 “(1A) The provisions of sub-section (1) shall apply in respect of all excisable goods other than salt which are produced or manufactured in India by, or on behalf of, Government, as they apply in respect of goods which are not produced or manufactured by Government.”

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\*The President has in pursuance of clause (1) of article 117, clause (3) of article 117 and clause (1) of article 74 of the Constitution of India, recommended to Lok Sabha, the introduction and consideration of the Bill.

## STATEMENT OF OBJECTS AND REASONS

Clause (1) of article 289 of the Constitution provides that "the property and income of a State shall be exempt from Union taxation". Clause (2) of that article, however, permits the Union to impose taxes in respect of a trade or business of any kind carried on by a State Government, or any operations connected therewith.

2. The question whether customs and excise duties though levied in respect of goods, were taxation on property and as such when any goods were imported or exported, or produced or manufactured, by State Governments, they enjoyed exemption under clause (1) of article 289 of the Constitution, was examined from the legal and constitutional points of view and the Government of India were advised that such duties were not taxation on property. It was, therefore, proposed that provision be made in the Customs Act and the Central Excises and Salt Act for the levy of import duty and excise duty on all goods imported or exported, or produced or manufactured, by State Governments, whether such import, export, production or manufacture was in connection with any trade or business carried on by the State Governments or not.

3. In view of the importance of the matter, and the objections raised by the State Governments to the proposed provisions, a special reference was made by the President to the Supreme Court for its opinion under article 143 of the Constitution on the interpretation of article 289 of the Constitution. The Supreme Court confirmed that the proposed provisions would be consistent with the provisions of article 289.

4. The legal position having been clarified, it is proposed to amend the Customs Act, 1962 and the Central Excises and Salt Act, 1944, so as to provide that duties of customs and excise will be leviable on all goods imported or exported, or produced or manufactured by State Governments. Hence this Bill.

NEW DELHI;

MORARJI DESAI.

*The 1st August, 1963.*

## FINANCIAL MEMORANDUM

Clauses 2 and 3 of the Bill would have the effect of rendering liable to Customs and Central Excise duties respectively certain goods which heretofore were free of duty. To that extent it would add to the work of the Customs and Central Excise Departments. No additional expenditure is likely on this account.

## BILL No. 32 OF 1963

*a Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958*

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

Short title      1. This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963.

Amendment of section 2.      2. In section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted and shall be deemed always to have been inserted, namely:— 5  
32 of 1958.

‘(dd) “rent”, in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes— 10

(i) any charge for electricity, water or any other services in connection with the occupation of the premises,

(ii) any tax (by whatever name called) payable in respect of the premises,

where such charge or tax is payable by the Central Government;’ 15

Amendment of section 3.      3. In section 3 of the principal Act,—

(a) in clause (a), after the words “gazetted officers of Government”, the words, brackets, letter and figure “or officers of

\*The President has, in pursuance of clause (4) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill.

equivalent rank of the Corporation or any committee or the authority referred to in clause (b) of section 2" shall be inserted;

*b* in clause (b), for the words "each estate officer", the words "the estate officers" shall be substituted.

5      4. In sub-section (2) of section 5 of the principal Act,—

Amendment  
of section 5.

(a) for the words "forty-five days", the words "thirty days" shall be substituted;

(b) the proviso shall be omitted.

10      5. In sub-section (2) of section 6 of the principal Act, after the words "rent or damages," the words "or costs," shall be inserted.

Amendment  
of section 6.

6. In section 7 of the principal Act,—

Amendment  
of section 7.

(a) in sub-section (2), the proviso shall be omitted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

15      "(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if  
20      any, and any evidence he may produce in support of the same, have been considered by the estate officer."

7. In section 9 of the principal Act,—

Amendment  
of section 9.

(a) in sub-section (2), for the words "thirty days" wherever they occur, the words "fifteen days" shall be substituted;

25      (b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The costs of any appeal under this section shall be in the discretion of the appellate officer."

30      8. To section 10 of the principal Act, the following words shall be added at the end, namely:—

Amendment  
of section  
10.

"and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act".

Insertion of  
new sections  
10A, 10B,  
10C and  
10D.

9. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Offences and  
penalty.

“10A. (1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both. 5

(2) Any magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any action that may be taken against him under this Act. 10

Power to  
obtain infor-  
mation.

10B. If the estate officer has reasons to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession. 15

Liability of  
heirs and  
legal repre-  
sentatives.

10C. (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person. 20 25

(2) Any amount due to the Central Government from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands. 30

Recovery of  
rent, etc., as  
an arrear  
of land  
revenue.

10D. If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or costs awarded to the Central Government under sub-section (4A) of section 9 or any portion of such rent, damages or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.”. 35

10. In section 13 of the principal Act,—

Amendment  
of section 13.

(a) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

5 “(bb) the distribution and allocation of work to estate officers and the transfer of any proceeding pending before an estate officer to another estate officer;”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

10 “(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions afore-  
15 said, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without pre-  
20 judice to the validity of anything previously done under that rule.”.

11. For the removal of doubts, it is hereby declared that the amendments made by clause (a) of section 7 of this Act shall not apply to any order made under section 5 or section 7 of the principal Act before the commencement of this Act.

Special pro-  
vision for  
limitation

## STATEMENT OF OBJECTS AND REASONS

The Public Premises (Eviction of Unauthorised Occupants) Act, 1958, was enacted to provide for speedy eviction of unauthorised occupants from public premises and for other connected matters. Experience of the working of the Act has however revealed certain difficulties in relation to procedural matters. It is, therefore, proposed to amend the Act so as to remove those difficulties and to incorporate certain provisions which would help effectively to implement the Act.

The main features of the Bill are—

(a) a person who, having been evicted from a public premises, reoccupies it without authority will be committing an offence;

(b) no court or other authority shall have power to grant any injunction in respect of any action taken or proposed to be taken by or under the Act;

(c) the heirs and legal representatives of a person will be liable for arrears of rent or damages or costs due from that person;

(d) the reduction of the time for preferring appeals and for compliance with the orders of eviction.

MEHR CHAND KHANNA.

NEW DELHI;

*The 8th July, 1963.*



## FINANCIAL MEMORANDUM

Clause 3 of the Bill contemplates appointment of more estate officers, who would be empowered to evict persons in unauthorised occupation of public premises. It is intended that this work would be entrusted to existing officers and it may not, therefore, be necessary to incur any additional expenditure.

It is, however, difficult to anticipate whether it would be necessary to create in future any additional posts for expediting the disposal of the work. It is not, therefore, possible to give any estimate of the additional expenditure, if additional posts are created. Even if any additional expenditure is involved, it is not likely to be appreciable and may be about fifty thousand rupees per annum.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to amend sub-section (2) of section 13 of the Act in order to empower the Central Government to make rules for the distribution and allocation of work to estate officers and the transfer of any proceeding pending before an estate officer to another estate officer. These are matters of procedural and administrative nature.

2. The delegation of legislative power is thus of a normal character

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M. N. KAUL,  
*Secretary.*